M.R.O. 1—60,000—16-10-39.

MADRAS RECORD OFFICE.

Government of Madras.

Political **DEPARTMENT.**

G.O. No. 970 Press ~~Mis.~~

Dated 16 — 11 — ~~19~~ 1837

Not to be folded or roughly handled

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No.18. From H. D. PHILLIPS, Esq., Commissioner of Tanjore; to E. MALTBY, Esq., Acting Chief Secretary to Government, Fort Saint George, dated 5th November 1857.

SIR,

With reference to my letter of the 24th September last, and to an Extract from the Minutes of Consultation under date the 5th of the following month, No. 849, I have the honor to forward copy of an Extract from the Proceedings of the Subordinate Court,

7th September 1857. from which it will be seen that the Suit in question has been put down for Ex-parte Trial.

2. It will also be seen that the Plaintiff has been required to show under what orders the Grain of which the value is sued for, was attached. In respect of

* *Dated 3rd November* 1857. the latter point, I have this day received an intimation* from the Government Vakeel at Combaconum, that the Plaintiff has nominated me as a witness to establish an allegation, that no Special orders were issued by the Government of the character referred to, in the conclusion at which the Subordinate Judge has arrived.

3. The Government are aware of the Appeal against the in-

24th September 1857. terlocutory proceedings of the Civil Judge which the Government Pleader, Mr. Dale, has it in contemplation to prefer to the Sudder Udawlut.

4. About 3 weeks ago, the Plaintiff proposed to withdraw

23rd September 1857. his action on payment of the value of the Grain attached. I would not entertain the proposition, unless he agreed to reimburse the expenses of the Defendant's already incurred, which he has refused to do. The Suit will therefore proceed.

5. The delay on account of which the Suit has been placed on Ex-parte Trial, resulted from my not being in a position to supply the explanation

To Government, 22nd July 1857, No. 197. called for by the Subordinate Court in regard to a part of the answer. Should the Appeal of the Go-

vernment Pleader be successful, I apprehend the Subordinate Court will have to retrace its steps.

(Signed) H. D. PHILLIPS,
Commissioner.

Extract from the Proceedings of the Subordinate Court, in the Zillah of Combaconum, under date the 7th September 1857.

O. S. No. 29 of 1856.

As the Defendants in O. S., No. 29 of 1856, have failed to conform to the order dated 2nd Instant, they are now declared to be Ex-parte, and the Suit will be brought to a hearing forthwith.

As there appears reason from the Pleadings to conclude that the Act complained of, was done under a Special order of Government, the Vakeel for Plaintiff is to prove under what orders the Act was committed—as if done under such Special order, the Defendants are not liable to be sued without the previous permission of the Governor in Council as provided by Section XV, Regulation 2 of 1802 which though omitted from Clarke's Code has not been interfered with by any subsequent enactment, but III. of 1809 which was rescinded by Regulations VIII, of 1822,—this latter enactment consequently revived such parts of Section XV, Regulation 2 of 1802, as had been affected by Regulation III of 1809 and the subsequent enactment of Regulation I of 1823 left wholly untouched the Provision of XV, Regulation 2 of 1802 as to Suits against Public Officers for Acts done under Special order of Government (for which the Officers under those provisions were *not liable to be sued*) and only provided for the way in which Proceedings should be held where a complaint was preferred in any Court against a Collector or other Officers *amenable* thereto for Acts connected with his official duties.

Lists in 10 Days,
7th September 1857.

(True Extract.)
(Signed) L. C. INNIS,
Sub-Judge.

(True Copy.)
(Signed) H. D. PHILLIPS
Commisioner.

No.19. ORDER THEREON, No. 970; dated 16th November 1857.
Communicated to the Government Pleader.

Exd. J. A. Wilson.